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HOW JUST TAXATION MAY BE MADE PRACTICABLE.

BY

LAWSON PURDY,

SECRETARY NEW YORK TAX REFORM ASSOCIATION.

NEW YORK CITY.

FROM PUBLIC POLICY, DECEMBER 28, 1901.

PUBLIC POLICY PUBLISHING CO.,
CHICAGO.

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HOW JUST TAXATION MAY BE MADE PRACTICABLE.[1]

BY LAWSON PURDY, SECRETARY OF THE NEW YORK TAX REFORM ASSOCIATION.

The first resolution of the two you have requested me to discuss this evening is a condensation of the resolution adopted by the National Tax Conference last May, and the second is a condensation of the platform of the New Jersey Tax Reform Association. The entire resolution of the New York State Commerce Convention and of the National Tax Conference is as follows:

RESOLUTIONS OF THE NEW YORK STATE COMMERCE CONVENTION AND OF THE NATIONAL TAX CONFERENCE.

Resolved, That the State Commerce Convention reiterates its resolution that the best way to reform the system of local taxation is to grant local option in taxation to the cities and counties of the state, and to carry this resolution into effect recommends the passage of the bill for the apportionment of state taxes and for local option in taxation, prepared by the New York Tax Reform Association, and unanimously indorsed by many organizations, some of which are members of this convention.

Resolved, That this convention indorses the follow-

1. An address before the New England Society, Orange, New Jersey, December 7, 1901.

ing resolution on taxation, unanimously adopted by the National Tax Conference:

"This conference recommends to the states the recognition and enforcement of the principles of interstate comity in taxation. These principles require that the same property should not be taxed at the same time by two state jurisdictions, and that if the title deeds or other paper evidences of the ownership of property or of an interest in property are taxed, they shall be taxed at the situs of the property, and not elsewhere. These principles should also be applied to any tax upon the transfer of property in expectation of death or by will or under the laws regulating the distribution of property in case of intestancy."

This resolution demands less of reform in the tax laws of New Jersey than in those of many of the states. Nevertheless, something of importance remains to be done to make the laws of New Jersey in harmony with the excellent principles agreed to by the delegates to the tax conference. That conference was made up of delegates appointed by the governors of some thirty-five states and of delegates from a few organizations of large membership. Many different points of view were represented and found expression at the conference, but this resolution, after extended deliberation and full discussion, was unanimously adopted.

WORST FEATURES OF DOUBLE TAXATION FOUND IN OHIO —WEALTH DRIVEN FROM THE STATE.

The evils which it is designed to remedy spring mainly from the attempt to tax what is called intangible property, which always results, when the attempt is successful, in taxing the same property more than once. Probably an example of the worst features of

double taxation may be found in Ohio. The law in Ohio requires that the stock of foreign corporations shall be taxed in the hands of residents of Ohio, and that all bonds, mortgages, notes and other evidences of debt shall be taxed, no matter where the property by which they are secured is situated. Many wealthy men have been driven from Ohio by this law, and the tax commission of that state, which reported in 1893, declared that the tax law put a premium upon perjury and oppressed and plundered the conscientious and unprotected. The effect of the law, if enforced, is to make the owner of stocks or bonds paying 4 per cent give up half his income in taxes, although the property represented by the stock or bonds has already been taxed.

EVIDENCES OF INDEBTEDNESS AND CERTIFICATES OF OWNERSHIP SHOULD NOT BE TAXED.

Here in New Jersey you do not tax stock or mortgages secured by New Jersey property, but you do tax mortgages on property outside the state, and bonds which are merely a fractional part of a mortgage, no matter where the mortgaged property may be situated. Your legislation is so enlightened that it is evident that the principles affecting the taxation of New Jersey land and a mortgage secured by that land are clear to your legislators. Now the principles which affect the taxation of any other evidence of debt are identical with these, and if they are applied logically the result cannot fail to be the entire exemption from taxation of all evidences of indebtedness, and certificates of ownership of or of an interest in any tangible property.

Objection to such large exemption is sometimes made by conscientious and intelligent people, on the

theory that many rich men would escape or would be able to escape all local taxation. The objectors really overlook the fact that a very small percentage, indeed, of intangible property is actually subjected to taxation in this state, or even in the state of Ohio, where the ingenuity of man has been exhausted in the attempt to assess all such property and to devise pains and penalties for those who evade or attempt to evade the payment demanded by the law. But do not imagine for a moment that this is the only or the principle answer that can be made to their objection. An example of the surest and the only infallible way of taxing intangible property is afforded by the policy of the United States in the case of its own obligations. United States bonds are exempt from taxation, not made so in the first instance by statute, but by an intelligent decision of our highest court, in which the opinion was written by the celebrated Chief Justice Marshall. About the year 1830 the state of South Carolina attempted to tax the obligations of the United States and Weston and others resisted payment. The case finally reached the Supreme Court, and, in delivering the opinion of the court, Chief Justice Marshall

OPINION OF CHIEF JUSTICE MARSHALL—RESULT OF NON-TAXATION.

said: "The tax on government stock is thought by this court to be a tax on the contract, a tax on the power to borrow money on the credit of the United States, and consequently to be repugnant to the constitution." In part his reasoning was that if a state could tax government bonds at all it could tax them to any extent. Now it is obvious that if a state imposed

a tax upon a government bond equal to the entire interest which the government promised to pay that no one in that state would lend any money to the government, hence he said all the states could impose such a tax and it would be impossible for the United States to sell one of its own bonds to any inhabitant of the United States. Suppose the United States government should itself impose a tax upon its own bonds. What would be the result? Why simply that the rate of interest that the government would have to pay would be increased by the precise amount of the tax. Now, on the other hand, the result of the non-taxation of government bonds is that the United States is able to borrow money for the very least sum, which, at the time, the loan is economically worth. More than this, it would be impossible for any government or any individual to accomplish. The result is that everyone who owns a government bond is contributing to the United States the largest sum which he could possibly be forced to contribute.

INTANGIBLE PROPERTY SHOULD NOT BE TAXED.

Now apply this principle to the bonds of some New Jersey street railway corporation. Under existing conditions those bonds are subject to taxation, but everyone knows that very few of them will ever be taxed. The rate of interest which the company has to pay is increased by this fear of taxation. How much it is increased no one knows, but if the security is perfectly good the increase is something near the difference between the rate the company has to pay and the United States has to pay. This is merely an indirect and uncertain way of imposing taxes on the company,

of making the people who own the bonds a little less conscientious and of practically stealing the income of a few of them. If the bonds were not taxed, the income of the company applicable to dividends would be larger and the taxable value of the property of the corporation would be greater, and, under a just and fair system of taxation, that property would be made to pay its proper share of the expenses of the state. The owners of such bonds, if they are exempt, will only receive economic interest and will not have their income swelled by receiving a sum increased by fear of taxation. Less than economic interest you cannot force them to take by any law man can devise.

These principles are applicable to the taxation of any intangible property, and with thought anyone can apply them. The resolution of the National Tax Conference does not distinctly say intangible property shall not be taxed, because some of the members of the conference would have been afraid to vote for such a resolution, but if anyone tries to live up to the principles set forth in the resolution he will find that the only way to do it is to exempt intangible property altogether.

APPORTIONMENT OF STATE AND COUNTY TAXES WITHOUT THE INTERVENTION OF BOARDS OF EQUALIZATION.

The second resolution relates to the apportionment of state and county taxes and to a grant of large power to the counties of the state in their selection of the subjects of property to be taxed. Quite a large part of your tax law is taken up by the attempt to apportion state and county taxes equitably. Most of you are

probably aware that the attempt is not successful. In every state in the Union in which taxes for the state or county are imposed on all property assessed by local officials and then the attempt is made to equalize those local assessments to do justice as between the different towns, there is jealousy, disregard of official oaths and litigation between towns. The situation was depicted somewhat graphically by the State Tax Commissioners of Michigan in their report for 1900. They said: "The occasion for state equalization is generally one of days filled with woe and gloom. Messengers who are sent from the counties are those who can picture the swamps, and barren and unfruitful fields, and who can leave the best impression of great desolation." Similar complaints have frequently been made by your state board of taxation and by the New Jersey tax commissions. There is evidently a great temptation to assessors to undervalue property for the purpose of reducing the proportion of the county tax by their own towns. So long as this temptation exists officials will to a greater or less extent succumb to it. The proposal of the New Jersey Tax Reform Association is to substitute such a method of apportioning county and state taxes that this temptation will be removed and the operation of the law shall work automatically instead of depending upon the judgment of interested officials.

The association proposes that each taxing district shall contribute to the county revenue in proportion to the amount of money it raises for its own purposes. For example, if all the taxing districts in a county raise $1,000,000 for their local purposes, and the county requires $50,000, then each taxing district would pay the

county 5 per cent as much as it spends for local purposes.

NEW PLAN STRONGLY INDORSED BY NEW YORK BUSINESS AND LABOR ORGANIZATIONS.

In my state of New York we have the same system of equalization for the purpose of apportioning state and county taxes that you have, and it produces a great deal of trouble. Last winter a bill was prepared by the New York Tax Reform Association for the apportionment of state taxes on the lines of the principles I have described. This bill was under consideration by the committee on state and municipal taxation of the New York Chamber of Commerce for upward of five months. The criticisms and suggestions of the committee were most valuable, especially those of the chairman of the committee, Mr. George F. Seward, who makes his summer home in your city. The bill was improved, and, I believe, perfected, and at the first meeting of the chamber, last January, the committee, in a lengthy report, recommended its approval by the chamber. Ten days in advance of the meeting a copy of the bill had been sent to every one of the 1,300 members, and at the meeting the report of the committee was adopted without a dissenting voice. At the meeting of the chamber, held December 5, 1901, the taxation committee presented a report setting forth that the experience of the last year proved the wisdom of the action of the chamber last January. Subsequently the bill was indorsed by many of the leading organizations of business men throughout the state, and by more than fifty of the most important labor unions. In October the New York State Commerce Convention, composed of delegates from boards of trade and chambers of commerce, and from cities and villages, unanimously adopted resolutions indorsing the bill, and also indorsing the resolution of the National Tax Conference, which I have already described.

EFFECTS OF APPORTIONMENT ON BASIS OF REVENUE.

Besides doing away with all the old friction of equalization, apportionment on the basis of revenue has much to commend it. It tends to introduce a slight incentive to economy into the administration of all branches of the government, which is now lacking. It clearly fixes responsibility for extravagance, which is now often shifted about from the local government to the county government, or even to the state government. If a town is extravagant it will pay slightly more county and state tax, and, on the other hand, if the county or state governments are extravagant, town taxes are increased by a definite sum of money, and every taxpayer can place the responsibility where it belongs by looking at his bill. More important than this, it slightly reduces the proportion of state and county taxes, which the poorest and most rural of the towns are now required to pay. A consideration of the principles involved shows that this must be the case, but in addition I have been at pains to verify it by an examination of the statistics of three of the rural counties of the state of New York. While the proportion of county or state tax paid by cities would be increased by an insensible amount, the saving to some of the very small towns sometimes amounts to a large percentage. This is only fair and just, for in your state, as in mine, frequent complaint has been made

that county taxes bear with greatest weight on the most thinly populated parts of the state.

LOCAL OPTION WITHOUT THE SANCTION OF LAW.

The second part of this bill, which is included in the program of the New Jersey Tax Reform Association, is by no means the least important. It provides for a certain option to be exercised by every township in selecting the subjects for local taxation. It is notorious that tax laws are often more observed in the breach than in the enforcement, and, like many police regulations, are enforced more or less in accordance with the sentiment in each community. Often a law that works fairly well in a thinly settled district is very ill adapted for the conditions of large cities. Your New Jersey law is not unlike that of New York, and yet it is common for New York industries and New York residents to remove to New Jersey to evade the taxes for which they are just as liable in this state as if they were in New York. This is sufficient proof, if proof is necessary, that you do practically what was once done openly in a certain town on Long Island. A wealthy resident of the city of New York selected a site for a home in this Long Island town, and then made the proposition to the assessors that he would make the town his legal residence, would spend a quarter of a million dollars there and pay personal taxes there if the assessors would agree not to make his personal assessment too high. They asked him what he thought was a fair figure, and he suggested $50,000. The assessors had a town meeting called and submitted the proposition to the voters. They agreed that it was eminently desirable to invite this gentleman to

make this town his home and agreed to sustain the assessors in fixing and maintaining the assessment of the gentleman's personal property at $50,000. The bargain was concluded and the wealthy resident of the city of New York became a legal resident of the Long Island town.

This was what I call local option without the sanction of law, but it is done all the time and done right here in New Jersey.

SMALL TAXING DISTRICTS AND LOCAL OPTION WILL MAKE JUST TAXATION PRACTICABLE.

If it is considered by all the inhabitants of a town so desirable to take certain action that they are willing to do it in violation of law, it is conclusive that the law should give them the right to make such decisions lawful. There is nothing sacred about the size of a political unit, and the best political division for purposes of government in taxation is a matter of experience and trial, as well as in all other matters. For a number of years students of taxation have been more and more coming to the conclusion that reform in taxation can only be brought about by reducing the size of the political unit, because the sentiment of rural communities differs from that in urban communities, and this conflict of opinion obstructs progress. If you are satisfied that the principles set forth in the resolution of the National Tax Conference should govern the law of New Jersey, you should advocate local option in taxation, because through local option this can be done more quickly, and very likely it is the only way it can be done at all.

Local option in taxation is an accomplished fact in

New Zealand and has worked extremely well for the last five years. In 1900 the local option law was amended so as to make it easier for action to be taken by municipalities. Since that time fifty municipalities have availed themselves of its provisions. Progress toward local option has been made in the state of Colorado, where an amendment to the constitution has been adopted by the Legislature, granting local option to the counties of the state. This amendment is to be submitted to the people at the next election, and, if we can judge by the large majority it received in the Legislature, it seems likely to be approved by the people. Bills of a similar character have been introduced in the legislatures of many states and receive constantly increasing support.

Our country, made up as it is of independent states, is a magnificent example of local self-government, and the movement for local option in taxation is merely an extension of the principle which has made this country great.

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